

December 7, 2017

Mr. Eric Chodnicki  
Daft, McCune, Walker  
501 Fairmount Ave. Suite 300  
Towson MD 21286

Re: Water's Landing  
Weber Ave. @ Hopkins Landing Drive, Essex MD 21221  
Forest Conservation Variance  
Tracking # 06-17-2553

Dear Mr. Leskinen:

The Department of Environmental Protection and Sustainability (EPS) has completed a review of the request for a variance from the Baltimore County Forest Conservation Law proposing to remove 2 specimen trees on the referenced property in order to construct a residential subdivision. The trees are *Quercus falcata* in good condition with diameters at breast height of 31 and 36-inches. Both trees are located within forest in an area that drains to a Hopkins Creek tributary. The trees are located outside of the required forest buffer.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116 of the Baltimore County Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One of the three criteria under Subsection 33-6-116 (d) must be met, and all three of the criteria under Subsection 33-6-116 (e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116 (d)(1) of the Code) requires that the petitioner show that the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of his property. The applicant proposes to create a major residential subdivision. Due to site constraints and infrastructure requirements, this subdivision could not be constructed as proposed without removal of specimen trees. However, imposing the requirement from which the variance is requested would not deprive the petitioner all beneficial use of his property. Therefore, this criterion is not met.

The second criterion (Subsection 33-6-116 (d) (2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions in the neighborhood. This request for a variance is a result of the location of the specimen trees on the referenced property in relation to the proposed residential development and the infrastructure requirements. The development and specimen tree removal proposed is based on these unique conditions of the property, and not from general conditions of the neighborhood. Therefore, this criterion is met.

The third criterion (Subsection 33-6-116 (d) (3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. While this part of the development property is forested, it is surrounded by multi-family and institutional uses, and an approved commercial use lot. About 1.4-acres of the highest priority forest along the Hopkins Creek tributary on-site is proposed to be retained in easement. Based on this, the proposed residential development of the site would be compatible with the neighborhood, and this criterion is met.

The fourth criterion (Subsection 33-6-116 (e) (1) of the Code) requires that the granting of the special variance will not adversely affect water quality. Forest buffer non-disturbance areas to protect streams and wetlands are required, and retention of existing forest on-site is required to meet forest conservation requirements. In addition, specimen tree mitigation must be provided pursuant to the forest conservation law. Also, stormwater management is being provided for the development in accordance with current County regulations. Based on this, this criterion is met.

The fifth criterion (Subsection 33-6-116 (e) (2) of the Code) requires that the special variance request does not arise from a condition or circumstance, which is the result of actions taken by the petitioner. This request is based on the location of specimen trees in relation to the proposed residential subdivision and the required infrastructure, and there has been no work conducted on the property that would have required this variance request. Therefore, this criterion is met.

The sixth criterion (Subsection 33-6-116 (e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. All forest conservation requirements must be met, including retention of priority forest within and adjacent to the forest buffer area on the property. In addition, mitigation for specimen trees must be provided as required by the forest conservation law. Therefore, this criterion is met.

Based upon our review, this Department finds that the required variance criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code, with the following conditions:

1. Meeting forest conservation requirements for the area of forest cleared will provide any necessary mitigation for the impact to the 2 specimen size *Quercus falcata* as these trees exist within the forest. A Forest Conservation Plan for this project must be approved prior to grading permit approval.
2. On all project plans, label specimen trees as “retain” or “remove” and add the following note:

A forest conservation special variance was granted by Baltimore County Department of Environmental Protection and Sustainability on December 7, 2017 to allow for the removal of 2 specimen trees on this project site. Mitigation was provided by meeting all forest conservation requirements as outlined on the forest conservation plan for the project.

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It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and an amended variance request.

Please have the property owner sign the statement at the end of this letter and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please contact Paul Dennis at (410) 887-3980.

Sincerely yours,

David V. Lykens  
Deputy Director

DVL/pad

c: Marian Honeczy MDDNR

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I/we agree to the above conditions to bring my/our property into compliance with Baltimore County Forest Conservation Law.

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Property Owner(s)

Date

Printed Name(s)

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